

Executive Summary: The House Intelligence Committee's Trump-Ukraine Impeachment Report dated December 3, 2019 used a subpoena to obtain phone records which plainly demonstrate that ranking member Devin Nunes (R-CA) has an actual conflict of interest with an ongoing impeachment hearing he oversees. That is because Rep. Nunes is currently engaged in overseeing an investigation in which it appears he is a fact witness, and which may examine his own activities and meetings with agents and lawyers of the President who solicited foreign election assistance, as well as potentially into his own contacts with foreign government officials. Rep. Nunes was aware of the actual conflict of interest from his relationships to persons under investigation by the House Intelligence Committee for the purposes of the impeachment inquiry upon which it issued a report, but failed to either disclose his conflict of interest with the investigation or that he has firsthand knowledge of the persons of interest to the Committee. This is a complaint against Rep. Nunes for abuse of his official office in violation of House Rule XXIII (1) which states: "A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House."

Dates the Alleged Conduct Occurred: April 10, 2019 - April 13, 2019 and September 26, 2019 - December 3, 2019.

Concise Statement of the Facts: According to the House Ethics Manual, which gives detailed guidance and precedents to guide the implementation of House Rule XXIII, "a review of these cases indicates that the Committee has historically viewed clause 1 as encompassing violations of law and abuses of one's official position."¹ Rep. Nunes used his official office to pursue a domestic political investigation by contacting the President's lawyer and agents, some of whom have said publicly that they acted as intermediaries to the Ukrainian government. Then, when that President's lawyer and agents fell under the purview of a House Intelligence Committee investigation, on which Rep. Nunes is the ranking member, he failed to disclose his relationship with Rudy Giuliani ("Giuliani") or Lev Parnas ("Parnas") who acted as lawyer and agent respectively, both of whom are known fact witnesses who received a Congressional subpoena to testify in the ongoing impeachment inquiry. Lastly, Rep. Nunes failed to recuse himself from participating in the direction and decisions of an official Congressional investigation into those two aforementioned persons.

Documents produced from the AT&T phone company to the House Intelligence Committee clearly indicate that Rep. Nunes engaged in six phone contacts with Giuliani on the day of April 10, 2019 which correspond to the time when the President's lawyer conducted a public pressure campaign against U.S. Ambassador Marie Yovanovitch that ultimately became a matter of public hearing in front of the impeachment inquiry.² Two days later on April 12, 2019, Rep. Nunes engaged in four phone calls with Parnas on another date of significance to the impeachment inquiry.³

¹ https://ethics.house.gov/sites/ethics.house.gov/files/documents/2008_House_Ethics_Manual.pdf p. 28

² <https://intelligence.house.gov/report/> p. 154-155

³ <https://intelligence.house.gov/report/> p. 156-158

Under House Intel Committee rules, Rep. Nunes could have known that record production had revealed his phone contacts with the persons under subpoena before the general public was informed with the release of the Trump-Ukraine Impeachment Inquiry Report. Yet, the Congressman never disclosed his potential conflict of interest overseeing the investigation to the public, nor did he recuse himself from any of its activities, including the drafting of an official 120-page HPSCI Minority report.

Later, Parnas was arrested by federal prosecutors on September 19, 2019 in the Southern District of New York on charges of making unlawful foreign election donations, to which he has pled not guilty. Parnas had hired the President's personal lawyer Rudy Giuliani and both men participated in a scheme the attorney directed to solicit official government acts in the nation of Ukraine related to domestic political matters in the United States in exchange for official acts to be performed by the President of the United States.

Subsequently, the Speaker of the House Nancy Pelosi declared an impeachment inquiry into the conduct of President Donald J. Trump on September 24, 2019 and then on October 31, 2019 the House passed H.R. 660 directing the House Intelligence Committee to hold public impeachment hearings and issue a written report of its findings. The crux of the impeachment inquiry's fact finding is to illuminate the President's conduct under the color of law, and that of his subordinates at his direction, and his lawyer. Rep. Nunes has an active relationship with the President's lawyer and his lawyer's top subordinate.

Still, Ranking member Nunes presided over those hearings and numerous depositions, without disclosing that his relationship with Parnas and Giuliani makes him a fact witness to the House's impeachment inquiry. His relationship with both men is an actual conflict of interest for any person investigating Mr. Parnas and Mr. Giuliani's conduct. Therefore Rep. Nunes' political relationships should ethically compel him to immediately recuse himself from his official role in the investigation.

The Law, Regulation, or Rule Allegedly Violated

Rule XXIII - Code Of Official Conduct

1. A Member, Delegate, Resident Commissioner, officer, or employee of the House shall behave at all times in a manner that shall reflect creditably on the House.